

VIA HAND DELIVERY

June 26, 2013

Hon. Katherine B. Forrest
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl St., Courtroom 15A
New York, NY 10007-1312



Re: *In re Puda Coal Securities Inc. et al. Litigation*
Civil Action No.11-cv-2598 (KBF)

Dear Judge Forrest:

Plaintiffs' Co-Lead Counsel respectfully request a modification of the current briefing schedule for defendants' motions for summary judgment/partial summary judgment. Following an agreed-upon request by defendants for a six-day extension of the original briefing schedule, pursuant to the Court's May 22, 2013, Order, plaintiffs' responses to the various motions are due by July 3, 2013, with reply papers in support of the motions due by July 10, 2013. Dkt. No. 181. Plaintiffs have not previously requested an extension of time in connection with this motion.

We have discussed the matters below with counsel for the various defendants, who agree to a reasonable extension, *i.e.* following a complete document production by both underwriter defendants, plaintiffs' papers will be filed approximately seven-to-ten days after the latter of the two underwriter Rule 30(b)(6) depositions.

In *In re SMART Techs., Inc. Shareholder Litig.*, No. 11-7673, 2013 WL 139559, at *11 (S.D.N.Y. Jan. 11, 2013), in the context of a class certification motion, the Court recognized that plaintiffs bringing claims under the Securities Act must be provided with the "opportunity to develop the factual issues on which resolution of the tracing question may turn." (The Court even provided several examples of how tracing could be shown, other than via a direct purchase from an underwriter.) To that end, plaintiffs have served both party and third-party discovery, and are in the process of obtaining the proof necessary to respond to defendants' showing concerning Named Plaintiff Rosenberger's December 8, 2010, share purchase. The current status of discovery required for Plaintiffs to respond to the motion for partial summary judgment is as follows:

Plaintiffs have been in negotiations with Fidelity Investments (Mr. Rosenberger's broker) for several weeks, trying to obtain information responsive to their Rule 30(b)(6) deposition notice and accompanying document requests. Fidelity has not yet provided all of the requested information. We expect a complete response this week. Several days ago, Fidelity (finally) stated that it does not possess the identities of the counterparties to Mr. Rosenberger's share

purchases. Plaintiffs intend to immediately serve subpoenas for documents on the clearing firms that delivered the shares that Mr. Rosenberger purchased in an effort to identify the counterparties. Once these clearing firms provide the identities of the counterparties to Mr. Rosenberger's transactions, plaintiffs should be able to determine whether those counterparties are Macquarie, Brean Murray, and/or shareholders that purchased shares directly from Maquarie or Brean Murray in the secondary offering. (If the clearing firms are only able to identify the brokerage firms that executed the trades on behalf of the counterparties to Mr. Rosenberger's transactions, plaintiffs will have to issue document subpoenas to those brokerage firms to identify the actual counterparties to Mr. Rosenberger's transactions.)

The Rule 30(b)(6) deposition of defendant Macquarie, relating to tracing issues only, is now scheduled for July 16th. The Rule 30(b)(6) deposition of defendant Brean Murray, also related to tracing issues only is expected to be set for the week of July 15, though a date certain has not yet been provided. The depositions had been postponed from earlier dates by mutual agreement. Plaintiffs expect to receive responsive documents from Defendants prior to the 30(b)(6) depositions.

Plaintiffs intend to match the transaction information in the documents that are expected to be produced by Macquarie and Brean Murray against the transaction information received from the clearing brokers. Therefore, plaintiffs request that their papers in response to the pending summary judgment motions be due approximately a week to ten days after the conclusion of the depositions of Macquarie and Brean Murray. This proposed schedule is predicated on the third party clearing firms producing the necessary counterparty information by July 19, 2013 (and that it will not be necessary to subpoena the brokerage firms that executed the trades on behalf of the counterparties to Mr. Rosenberger's transactions).

If, as planned, the Rule 30(b)(6) depositions are completed by July 19, 2013 (and that responsive documents have been produced in advance of each deposition) and necessary third-party discovery is completed by July 19th as well, plaintiffs propose to file their papers in opposition to the pending motions on July 26, 2013, and request that defendants be given until August 5, 2013, to file their papers in reply.


Defendants ~~do not oppose this proposed schedule~~. However, Defendants have reserved their rights to ~~oppose a further extension if~~ the clearing firms do not produce documents in a timely matter, and Plaintiffs seek additional time for discovery.

In addition to the discovery relating to summary judgment, over the past month, the parties have engaged in mediation efforts and engaged in discovery in conjunction with the also-pending intervention motion. Plaintiffs will soon file their opening papers in support of class certification. Both sides have been diligently moving forward on all fronts and appreciate the Court's consideration with respect to this scheduling request.

Ordered

Extension granted: plaintiffs
to oppose on or before
7/26/13; defendants to reply
on or before 8/5/13. Further
extensions would require an additional order.
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Respectfully Submitted,


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